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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,120

03/15/2004

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04/24/2008

EXAMINER

TOMPKINS, ALISSA JILL

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

04/24/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/801,120	<b>Applicant(s)</b> WOOD ET AL.	
	<b>Examiner</b> ALISSA J. TOMPKINS	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 9-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's amendment filed on 1/31/2008 has been received. Claims 1-24 are still pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segol (U.S. 4,485,494). Segol discloses a garment 10 comprising an outer shell formed with a body 11 and 12 and sleeves 15. A pair of hand warmer pockets 19 are located on the front of the garment at breastbone level (Figure 1). The pockets are angled upward. The applicant does not give any criticality as to why 15-20 degrees of inclination from horizontal is better than any other degree of inclination. The pockets of Segol are able to perform in the same way applicant has claimed although a certain degree of inclination is not specified. The actual pocket openings 25 are located below the uppermost part of the pocket, therefore enabling the hand of a wearer to be inserted

in an upward position. Please see attached drawing. It is noted by the Examiner that the claim language which requires "said pair of hand warmer pockets comfortably warming both hands while the hunter remains in an arms-crossed-on-chest posture," is considered to be purely functional and has not been given any additional weight. The garment may be made of any conventional garment material such as wool, linen, cotton, cotton-synthetic composites and the like (Column 3, 65-68). The garment can be in the form of shirts, jackets, sweaters, suit coats, hospital wear, gowns, dresses, outerwear etc. (Column 4, 1-4). It is well known to make jackets out of micro fleece. The garment is considered to be wader length.

Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segol in view of Snedeker (U.S. 5,842,229). Segol discloses the invention substantially as applied in claim 1 above. However, Segol is missing an inner removable liner. Snedeker shows a jacket-type garment comprising a liner 22 having an inner quilted layer 24 of thermal insulating material and an outer moisture barrier layer 26. It would have been obvious to use poly insulation. The insulated inner lining is removable by way of conventional snap fasteners (Column 2, 65). It is well known in the art that snap fasteners, zippers, hook and loop tape etc. are all considered equivalents in the art and therefore it would have been obvious to use a zipper as a means of removal. The garment also comprises taped seams 84 that are used to prevent moisture from seeping through. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Snedeker to modify Segol in order

to provide a jacket that can keep the wearer warm while also keeping them dry in various environments.

### ***Response to Arguments***

Applicant's arguments filed 1/31/2008 have been fully considered but they are not persuasive.

Applicant submits that Segol simply fails to teach or suggest hand-warmer pockets located on the front of the garment at the breastbone level with openings disposed at 15-20 degrees to the horizontal for upward insertion of the hand. Applicant argues that no portion of pocket 19 is above opening 25 such that it would be impossible to insert the hand of the wearer into the pocket in an upward manner. However, as stated above, the actual pocket openings 25 are located below the uppermost part of the pocket (seam 20), therefore enabling the hand of a wearer to be inserted in an upward position. It is noted by the examiner that there is no defining structure in the claim. The applicant has not amended the claim language. When interpreted in the broadest reasonable sense, the prior art of Segol reads on the structure in applicant's claim language. The applicant's specification does not give any criticality as to why 15-20 degrees of inclination from horizontal is better than any other degree of inclination. The pockets of Segol are able to perform in the same way applicant has claimed although a certain degree of inclination is not specified.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALISSA J. TOMPKINS whose telephone number is (571)272-3425. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3765

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alissa J. Tompkins/  
Examiner, Art Unit 3765

/Gary L. Welch/  
Supervisory Patent Examiner, Art Unit 3765